MONTANA LEGISLATIVE HISTORY

Chapter 517 19 77

Bill H 319 S _____ Original bill & history ____C

H. Committee on Labor & Employment Relations		S. Committee on Labor & Employment Relations	
Hearing Date(s) Jan 26	✓C	Hearing Date(s) Feb 25	✓C
Feb 16	✓C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Feb 16	✓C	Feb 25	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Senate BILL NO. 319

INTRODUCED BY Eve

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CREDIT AGAINST THE COAL SEVERANCE TAX FOR ANY SIMILAR TAX LEVIED BY AN INDIAN TRIBE ON COAL PRODUCED ON A RESERVATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section in chapter 13, Title 84, that reads as follows:

Credit -- taxes paid to Indian tribes. A credit of $1 against the state severance taxes provided for in this chapter shall be granted the producer of coal for each dollar paid an Indian tribe pursuant to an approved tribal tax if the following conditions are met:

(a) the coal produced is held in trust by the United States for the benefit of a federally recognized Indian tribe or Indian allottee;

(b) the coal is produced within the boundaries of a federally recognized Indian reservation;

(c) the Indian tribe has enacted a tribal mineral tax which has been approved by the secretary of the interior; and

(d) the revenues received from the tribal mineral tax will be:

LC 1291/01

(i) used to upgrade tribal governmental services, including services required by the local impact of coal development; and

(ii) invested for the benefit of future generations.

-End-

STATE OF MONTANA

REQUEST NO. 386-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 319 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This bill allows a credit against the coal severance tax for any similar tax levied by an Indian tribe on coal produced on a reservation.

ASSUMPTIONS

In the biennium no coal companies will be paying a coal tax to Indian reservations. This is currently the case, therefore, there is no fiscal impact.

LONG-RANGE EFFECTS

The state could lose several hundred million dollars in the future. Mr. Kleppe, former Secretary of Interior, has approved a 25% severance tax on coal on the Crow reservation. This would reduce the state's share of the tax to 16% of what it would be without this law.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Dunn for

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2-11-77

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 25, 1977

The ninteenth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lee on the above date in Room 402 of the State Capitol Building at 9:30 a.m.

ROW CALL: All members present with Senator Himsl excused.

CONSDIERATION OF HJR 52: A joint resolution of the Senate and the House of Representatives of the State of Montana urging the Apprenticeship Bureau, Joint Apprenticeship Training Committee, and individual Employers to train more apprentices.

Representative Eugene Frates, District 60, Chief Sponsor of this bill, introduced HJR 52 to the committee. This bill is to ask for a continuation of sponsoring of the apprenticeship program. We have one of the finest training programs in the United States and we are just asking for continued funding and support from the state government. I am also suggesting that there are new areas that might be approached. I don't know of any problems with this bill.

Ernie Post, representing Montana State AFL-CIO, appeared in support of HJR 52. We had some problems with this bill before the amendments were added in the House. We are concerned with the training of apprentices and this bill will also cover small towns where there is a shortage of craftsmen.

Dick Michels, representing the Apprenticeship Bureau appeared in support of HJR 52.

General discussion was then held by the committee. The apprenticeship programs are strictly set up and operating the way they did many years ago. The main funding is through a self supported industry

Senator Lowe moved HJR 52 BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HB 319: An act to provide for the training of fact finders and arbitrators.

Representative Russ Baeth, Chief Sponsor of this bill, had Senator Blaylock introduce HB 319 to the committee. The Board of Personnel Appeals is in agreement with this and they would set up a one day workshop training program for fact-finders and arbitrators, explaining various collective bargaining laws and guidelines to conducting a hearing. Most of these people now have had no training at all.

Chad Smith, representing Montana School Board Association, appeared in support of HB 319. The matter of service of fact finders

and arbitrators is a very technical one. It is a very delicate situation in the collective bargaining process. It is important to both sides of the table that they can rely on the knowledge of the fact finder and arbitrators. It is not an extremely expensive item. It will run a little more the first year but after the program is set up it will run approximately $2,000. This is probably one of the most important bills with regards to collective bargaining. Mr. Smith stated that an amendment should be added on page 1, section 1, line 11. Following: "arbitrator" Insert: "under title 59, chapter 16." This bill is intended to relate to collective bargaining and not to cover just anyone.

Bob Jenson, representing Board of Personnel Appeals, appeared in support of HB 319. We have a number of fact finders and arbitrators who have never had any training. We feel this is necessary.

Mr. LeRoy Corbin, representing Montana Federation of Teachers, appeared in support of HB 319. This bill is a very good piece of legislation and a step in the right direction. This is the first step in getting good collective bargaining as we had school board members training in the same way.

General discussion was then held by the committee. This is a school board sponsored bill. The Board of Personnel Appeals would determine the course of the program. They would have a meeting with the union people to develop the cirriculum of the kinds of things included. The participant would be paid $25 a day plus expenses for attending the workshop.

Senator Blaylock moved that the amendment submitted by Mr. Smith be adopted by the committee. The motion carried unanimously. Senator Blaylock then moved that HB 319 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

CONSIDERATION OF SJR 40: A joint resolution of the Senate and the House of Representatives of the State of Montana requesting the committee on priorities to assign a study on the child labor laws of Montana.

Senator Mehrens, District 45, Chief Sponsor of this bill, had Tony Softich introduce SJR 40 to the committee.

Tony Softich, representing Labor Standards, appeared in support of SJR 40. This child labor law is contrary to the federal law. It is imperative that we do have a study on child labor laws so there will be regulations for the state to follow. We need these laws to protect our children. These child labor laws cover a broad area, and the only way we are going to get special requirements is to pass these laws once they have been studied further.

Margaret Zednick, representing Rehabilitative Service Division, appeared in support of SJR 40. The REhabilitative Division has programs in 26 high schools, serving about 500 young people. About [illegible] work experience sites. It is quite a

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2/25

NAME	PRESENT	ABSENT	EXCUSED
Senator Robert Lee, Chairman	✓		
Senator Bill Lowe, Vice Chairman	✓		
Senator Chet Blaylock	✓		
Senator Pat Goodcver	✓		
Senator Matt Himsl			✓
Senator Sandy Mehrens	✓		
Senator Harold Nelson	✓		
Senator Richard Smith	✓		

HB 317
581

SENATE LABOR COMMITTEE

BILL HJR 52
SJR 40

VISITORS' REGISTER

DATE 2/25

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPP
Polly Courtbridge	Child & Youth Dev. Bur.	SJR 40	✓	
Margaret Zadnick	Refugee Service Office	SJR 40	—	
Bill Rehbaugh	Ft. Milwaukee Road	H.B 581		✓
John DeBaro	Mont RR	581		+
[illegible]	BNE	581	X	
Norma Evatt	Women's Rights	HJR 52		
Lisa Wilkes	Apprenticeship Bureau	HJR 52	✓	
Tony Stiltis	Labor Standards	S.J.R. 40 & J.R. 52	✓	
Edward V. Tangent	Mont. School Bds. Assn	HB 317	✓	
Dick Jenser	Board of Personnel Appeals	HB-319	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

There were no opponents to House Bill 296. Questions were then asked. The estimated cost of implementation was discussed. One FTE position would cost $14,000, and the agencies themselves might incur some cost but it would be a minimum. Also, the state would have to pay more health insurance. Representative Bradley then closed, stressing that the committee should consider the benefits this bill offers to the state rather than the costs, which would be minimal.

HOUSE BILL 75 was then discussed. Chairman Kimble passed out a proposed substitute bill. Since this bill had already been heard, the consideration today would be how to change the law so that it will work to the satisfaction of everyone involved. The question was brought up of whether or not the Rules Committee would permit amending this bill in such a manner, since it had originally been a repealer. This problem shall be considered at a later date. Mr. Tony Softich, Labor Standards Division, expressed their support of the amended version of this bill; see prepared statement. Representative Underdal then spoke. He expressed reservations about the amendments and informed the Committe that he had only known about them for a short time. The Chairman then explained the amendments. The question arose of whether this was a one-time or a yearly financial statement, and it was concluded that it was a one-time statement. Representative Underdal expressed the vie that the law would still be discriminatory. At this time he presented three mailgrams from proponents of the bill in its original version. Mr. Ernie Post, Montana State AFL-CIO then spoke in support of this bill, as amended. He expressed the feeling that these amendments are looking for a middle gound on which the employers are treated fairl The language in the amendments is taken from the contractors' bonding law. Without investigation authority, how can the Department of Labor check into the experience factor? Another proponent was Phil Strope, Montana Tavern Association. He helped prepare the proposed substitute for House Bill 75, and supports it. He suggested that a committee substitute bill for House Bill 75 be drafted, which would dispose of th old bill and create an entirely new bill. Discussion of this proposal took place. It was moved by Representative Ellerd that in light of the fact that Representative Underdal had had no input into the amendments the committee should pass the bill for the day, until the sponsor could make a decision on whether or not he could still support the bill as amended. Representative Lynch seconded the motion. Motion carried unanimously.

HOUSE BILL 319, sponsored by Representative Russell Baeth, was then heard. He explained that he had introduced this bill for the State Board of Appeals, and then turned the testimony over to Mr. Bob Jensen Administrator of the Board of Personnel Appeals; see prepared statemen Mr. Wayne Buchanan, Montana School Boards Association, then spoke; see prepared statement. Attorney Chad Smith, representing the Montana School Boards Association, spoke, expressing that association's strong approval of this measure.

There were no opponents to House Bill 319. Questions followed. Representative Lynch pointed out that under this bill, out-of-state fact finders would not be included unless they had taken part in the Montana training.

Representative Williams seconded it. Discussion took place. Representative Turner was opposed to the resolution. Representative Baeth withdrew his motion. It was agreed to postpone action on the resolution until a fiscal note could be completed.

HOUSE BILL 331 - Representative Lynch moved that it DO NOT PASS; Representative Baeth seconded the motion. Discussion took place and the question was then called for. Motion carried with Representatives Ellerd, Turner, Wyrick, Porter and Sivertsen opposed.

HOUSE BILL 319 - A motion was made and seconded that it DO PASS AS AMENDED. Motion carried with Representative Ellerd opposed.

HOUSE BILL 296 - A straw vote was taken to determine whether or not the committee would accept it if amended to read "may" instead of "shall". Representative Kimble informed the committee that the sponsor was not in favor of this amendment. A motion of DO NOT PASS was made and seconded. Motion carried, with Representatives Lynch, Dassinger and Kimble opposed.

HOUSE JOINT RESOLUTION 25 - Chairman Kimble announced that the chief sponsor would be opposed to any amendments to the resolution.

Representative Lynch then moved that it DO NOT PASS; Representative Baeth seconded the motion. Motion carried unanimously.

HOUSE BILL 370 - This bill had been moved back to committee on the assumption that amendments would be submitted. Nothing had been received. It was elected to give the proponents and opponents one more legislative day to work the amendments out.

HOUSE BILL 458 - Representative Lynch moved DO NOT PASS; Representative Dassinger seconded the motion. Discussion took place. Representative Ellerd moved to amend the bill to 55%. Representative Porter seconded the motion. Further discussion occurred. The question was called for on the motion to amend the bill. The motion failed with Representatives Brand, Lynch, Dassinger, Baeth, Kanduch and Teague opposed. Representatives Porter, Wyrick, Ellerd and Turner were in favor of the motion. The original motion was once again before the committee. Representative Ellerd made a substitute motion that House Bill 458 DO PASS. Question was called for and the motion failed, with Representatives Teague, Brand, Lynch, Dassinger, Baeth, Williams and Kanduch opposed and Representatives Porter, Ellerd, Wyrick, Turner and Sivertsen in favor. The original question was then called for and the votes on the previous motion were switched. The motion of DO NOT PASS carried.

SENATE BILL 141 - Representative Lynch moved to CONCUR; Representative Brand seconded it. Motion carried unanimously.

(2) No bond of indemnity is required:

(a) *when* the payee is the United States government, a state of the United States, any agency, instrumentality, or officer of the United States government or of a state, county, city, city and county, town, district, or other political subdivision of a state or any officer thereof;

(b) *when* the owner or custodian is the state of Montana or any agency or officer thereof;

(c) *when* the owner or custodian is a bank, savings and loan association, admitted insurer, or trust company whose financial condition is regulated by the United States government or by the state of Montana;

(d) *when* the amount of the lost or destroyed warrant is less than *$100*;

(e) when it can be established that a crime has been committed and as a result of such crime that a state of Montana warrant has been stolen or destroyed;

(f) when it can be established that a state of Montana warrant has been mailed to an incorrect payee; or

(g) when the payee is a vendor or contractor doing business with the state of Montana.

(3) Whenever the owner or custodian applies under the provisions of subsections (2)(e), (2)(f), or (2)(g), a stop-payment order shall be placed on the original warrant by the state auditor.

(4) *Whenever* the owner or custodian applies under the provisions of subsection (2)(c), (2)(d), (2)(e), (2)(f), or (2)(g), the application shall include an agreement to indemnify and hold harmless the state or its officers and employees from any loss resulting from the issuance of a duplicate warrant. Any loss incurred in connection with the issuance of a duplicate warrant shall be charged against the account from which the payment was derived."

Approved April 7, 1977.

CHAPTER NO. 319

AN ACT TO AMEND SECTION 40-2807, R.C.M. 1947, TO INCREASE THE CAPITAL AND SURPLUS REQUIREMENTS FOR INSURANCE COMPANIES TRANSACTING BUSINESS IN MONTANA AND TO PROVIDE A 3-YEAR SAVING CLAUSE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-2807, R.C.M. 1947, is amended to read as follows:

"40-2807. Capital funds required. (1) To qualify for authority to transact any one kind (as defined in chapter 29) of insurance, or combinations of kinds of insurance as shown below, an insurer shall possess and thereafter maintain unimpaired paid-in capital stock (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal insurer) in amount not less than as applicable under the schedule below and shall possess when first so authorized such additional funds as surplus as required under section 40-2808:

Kind or kinds of insurance	Minimum capital or surplus required
Life	$200,000
Disability	200,000
Life and disability	300,000
Property	400,000
Marine	400,000
Casualty	
All lines except workmen's compensation	400,000
All lines, including workmen's compensation	600,000
Surety	500,000
Title	200,000
Multiple lines (two or more: property, marine, casualty or surety)	800,000

Except, that an insurer holding a valid certificate of authority to transact insurance in this state immediately prior to the effective date of this code may, if otherwise qualified therefor, continue to be so authorized for a period of five (5) years from such effective date by maintaining the same amount of paid-in capital stock (if a stock insurer) or the same amount of surplus (if a mutual or reciprocal insurer) as required by the laws of this state for such authority immediately prior to such effective date, and shall after expiration of such five-year period have or receive authority to transact insurance in this state only if otherwise qualified therefor while having and maintaining paid-in capital stock (if a stock insurer) or surplus (if a mutual or reciprocal insurer) in applicable amount as otherwise required under this section; except, further, that any such insurer shall not, within such five-year period, be granted authority to transact any other or additional kind of insurance unless it then fully complies with the requirements as to capital and surplus, as applied to all kinds of insurance it then proposes to transact, as provided by this code as to insurers applying for original certificates of authority under this code.

(2) As to surplus required for qualification to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual insurers shall be governed by chapter 47, and domestic reciprocal insurers shall be governed by chapter 50.

(3) Capital and surplus requirements shall be based upon all the kinds of insurance actually transacted or to be transacted by the insurer in any and all areas in which it operates, whether or not only a portion of such kinds are to be transacted in this state.

(4) A life insurer may also grant annuities without additional capital or additional surplus."

Section 2. **Saving clause.** Insurers transacting business immediately prior to the effective date of this act have 3 years from the effective date of this act to comply with the increased capital and surplus requirements. Such insurers may not be granted authority to transact additional kinds of insurance during this 3-year period unless they comply with the requirements of this act.

Approved April 7, 1977.

CHAPTER NO. 320

AN ACT TO GENERALLY REVISE THE LAWS ON UNFAIR INSURANCE CLAIM SETTLEMENT, FAVORED AGENT PRACTICES, AND ENFORCEMENT PROCEDURES AND PENALTIES; AMENDING SECTIONS 40-3501, 40-3512, AND 40-3514, R.C.M. 1947; REPEALING SECTION 40-3516, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new R.C.M. section numbered 40-3502.1 that reads as follows:

40-3502.1. Unfair claim settlement practices. No person may, with such frequency as to indicate a general business practice, do any of the following:

(1) misrepresent pertinent facts or insurance policy provisions relating to coverages at issue;

(2) fail to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) fail to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) refuse to pay claims without conducting a reasonable investigation based upon all available information;

(5) fail to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) neglect to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

(7) compel insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) attempt to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) attempt to settle claims on the basis of an application which was altered without notice to or knowledge or consent of the insured;

(10) make claims payments to insureds or beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made;

(11) make known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) delay the investigation or payment of claims by requiring an insured, claimant, or physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) fail to promptly settle claims, if liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(14) fail to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Section 2. There is a new R.C.M. section numbered 40-3502.2 that reads as follows:

40-3502.2. Failure to maintain complaint handling procedures. (1) An insurer shall maintain a complete record of all the complaints which it has received since the date of its last examination under 40-2713. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, and the time it took to process each complaint.

(2) For purposes of this section, "complaint" means any written communication primarily expressing a grievance.

Section 3. There is a new R.C.M. section numbered 40-3502.3 that reads as follows:

40-3502.3. Power of the commissioner. The commissioner may examine and investigate the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this chapter.

Section 4. There is a new R.C.M. section numbered 40-3514.1 that reads as follows:

40-3514.1. Penalty for violation of cease and desist orders. (1) Any person who violates a cease and desist order issued pursuant to 40-3514 is subject to a civil penalty not to exceed $1,000. Each day of violation constitutes a separate violation. The total penalty may not exceed a $10,000 aggregate. The department may institute and maintain in the